

IN THE
SUPREME COURT

OF THE

DISTRICT OF COLUMBIA,

Holding a Criminal Term, No. 14,056.

THE UNITED STATES

vs.

CHARLES J. GUTEAU.

MR. JUSTICE WALTER S. COX, Presiding.

COUNSEL FOR THE GOVERNMENT.

DISTRICT ATTORNEY MR. GEORGE B. CORKHILL, MR. WALTER
D. DAVIDGE AND MR. JOHN K. PORTER.

COUNSEL FOR DEFENDANT.

MR. GEORGE SCOVILLE AND MR. LEIGH ROBINSON.

NOVEMBER, 1881.

"That cannot be a fact in law, which is not a fact in science."

—(Doe, J., in Boardman v. Woodman, 47 N. H., 150.)

WASHINGTON, 1881.



FORDYCE BARKER sworn and examined.

By Mr. Porter :

Q. Are you a physician and surgeon ?

A. I am not a surgeon ; I am a physician.

Q. How long have you been so, and where have you practiced as such ?

A. I have been in practice in New York over thirty years.

Q. Are you a professor in one of the New York medical colleges ; and, if so, how long have you been such ?

A. I have been a professor in a medical college ever since I have resided in New York.

Q. Are you the President of the New York Academy of Medicine ?

A. I am.

Q. Will you state whether you were a Vice-President of the recent International Medical Congress at London ?

A. I was.

Q. Have you devoted much time and attention to the study of insanity ?

A. I have carefully studied it.

Q. In what manner have you studied that subject ?

A. I have endeavored to learn all that is known in medical science on the subject, and I have had to study it practically almost constantly, in patients.

Q. How do you define insanity ?

A. Insanity is a Disease characterized by a perversion of the mental faculties, or of the emotions and instincts ; perversion from the normal, natural action of the individual.

Q. In what sense is it that you use the term disease in that connection ?

A. I use the term disease with this meaning : that it is a departure from a healthy condition of the organs or tissues of the body, or a departure from the functions or healthy performance of the duties of those organs.

Q. Will you state to the jury whether, in cases of insanity, you do or do not find either a change of substance or tissue of some organ wrought by disease, or a change in the healthy performance of the functions and duties which belong to some part of the body ? Do you, or do you not, find one or the other of these characteristics ?

A. Always. We always find either one or the other, or both. It is not insanity where this change does not exist.

Q. Are there diseases in which there are no changes of the substance of the body discoverable, either during life or on a *post-mortem* examination ?

A. There are many such diseases in which no organic changes are discoverable, either during life or after death, by any appliances of science, so far as yet ascertained.

Q. I would ask you, as we are not familiar with these things, to give illustrations, if you can ?

A. Constipation is one illustration. It may exist as a disease for a long time, and yet, upon an examination after death, it may be that no change in the organ belonging to the function is recognizable by any method of examination. Neuralgia is another disease, and epilepsy is still another disease where no change may be discoverable. I have seen death occur in such a disease as puerperal fever in a very short period of time from the attack, and no perceptible change could be discovered in the organs to explain the death. I can give many illustrations, but perhaps these are sufficient for your purpose.

Q. How can you demonstrate that there is a diseased condition of insanity, solely from the perversion of the action of the brain without any organic change ?

A. It can be demonstrated in several ways. Perhaps a few illustrations will be sufficient. One illustration would be this: That some persons insane have known and well-marked disease in other parts of the system, and when these remote diseases are cured the insanity disappears, showing that diseases other than of the brain produce such a disturbance in the action of the brain as to cause the insanity. It can also be shown by experiment. Chloral and chloroform in large doses will temporarily abolish all the functions of the brain. Small doses of alcohol or of opium may stimulate the action of the brain. Large doses of belladonna or Indian hemp pervert the action of the brain, so as to produce insanity while the patient is under the influence of those agents.

Q. I have asked whether insanity is always the result of organic disease of the brain, and you answer "No." As to whether it is ever produced by diseases of other organs, your answer has, in part, anticipated my inquiry. I would now like to ask you to state whether it is produced by diseases of other than organs remote from the brain?

A. Very often. It is perfectly demonstrable by examination of the evidence and by results.

Q. I would like to inquire of you whether insanity is a hereditary disease?

A. There is no such disease in science as hereditary insanity. There can be no hereditary insanity. There is, undoubtedly, hereditary tendency to insanity, which can be demonstrated and proved. By this I mean that certain individuals are born with a tendency, or with a nervous organization which renders them more liable to become insane under the influence of a specific cause less in degree than would produce insanity in a majority of the world, or in others who have different organizations.

Q. What do you mean by the tendency to insan-

ity or susceptibility; I do not recall the precise phrase used?

A. I mean that the system is susceptible to such perversion of its mental faculties or its emotional and moral faculties and instincts as would not be compatible with a perfect state of healthy organization.

Q. Does the fact that the father and mother or grandparents of any individual were insane prove that he is more likely than others to become insane?

A. It does not necessarily prove it. It does not. It may be the fact that he is more likely to become so; but if a grandfather or a grandmother becomes insane twenty years or at any time after the birth of the patient, and that insanity is produced by some specific cause, not constitutional, as an injury to the brain by a fracture driving in a portion of the skull or from inflammation of the membranes covering the brain, or any accidental cause that develops insanity, which would develop the same disease in any one else, it would have no bearing on the insanity of the descendants. If a mother becomes insane a week after the birth of her child from disease connected with her confinement at the birth it is not transmissible to the child, of course, as the child was born before, and it would not prove that the child inherited this tendency.

Q. A theory has been suggested here by our learned friend upon the other side that insanity of the son or the grandson proves the insanity of their ancestors. Does an ancestor inherit insanity from his descendants?

Mr. Scoville:

If the Court please, I do object to counsel stating our theories unless he states them correctly.

Mr. Porter:

Perhaps I have misapprehended it.

Mr. Scoville:

You have.

Mr. Porter :

If I have I will recall the question.

Q. I will ask another. Does the fact that a man's brother or sister is insane furnish any evidence that he is insane?

A. It does not. It may furnish some evidence as to the constitution and temperament of the individual, but it proves nothing as to the individual.

Q. Can a man inherit insanity from his brother or his sister, his aunts or his cousins?

A. He cannot possibly.

Q. Or a tendency to insanity?

A. He cannot.

Q. Are delusions a constant element of insanity?

A. They are not, for two reasons: there are many insane people—people absolutely, positively laboring under this disease—who have no delusions. There are many perfectly sane people who have delusions.

Q. I ask you what, in the scientific sense, is a delusion?

A. Delusion means false belief, a belief in the existence of something which does not exist in reality or in the relation of facts to each other or a false perception of what those facts are.

Q. You say that sane persons may have delusions, please give to the jury some familiar illustrations, such as may occur to you?

A. They vary, but I can give you a great many. For illustration, the belief of a large class of perfectly sane persons that the world was to come to an end and be burned up a few years ago. We very frequently meet with delusions in the perfectly sane that they are great orators, great writers, great poets, great artists, when the judgment of themselves is entirely different from that of the rest of the world in regard them. This is an illustration

of delusion in the perfectly sane. I could give a great many others.

Q. Will you explain how a person can be insane without delusions, and illustrate that from the facts which are within your scientific knowledge?

A. A person may have the exercise of all the mental faculties, but by disease have his emotions and instincts so perverted, so changed from the normal or healthy action of those emotions or instincts as to destroy the power of his will to regulate his own conduct.

Q. Is that moral insanity of which we heard considerable on this trial?

A. It is not. It is something very different.

Q. What is moral insanity?

A. Moral insanity is wickedness. It is a term which, in medical science, should not be found as describing a form of insanity. It is a term loosely used to excuse or palliate conduct which, on any other theory, is indefensible.

Q. I have asked you in regard to delusions. Do the insane have illusions?

A. They often do, and the sane also.

Q. We have heard much of illusions. Please define what they are as distinguished from delusions?

A. Illusions are false perceptions of material objects, or a false impression on the mind through the medium of the different senses, as sight, hearing, smell, taste or touch.

Q. Do the insane have hallucinations?

A. Often, and so do the sane.

Q. Both the sane and the insane?

A. Yes, sir.

Q. What are those hallucinations?

A. Hallucinations are false perceptions to the sense of sight, hearing, touch, smell or taste of what does not exist, in contradistinction from illusions, which are false perceptions of what does really exist.

Q. What is the distinction between delusion, illusion and hallucination ?

A. Delusions pertain purely to the mental faculties, false belief from false reasoning or from disease ; illusions and hallucinations pertain exclusively to perversions of the senses.

Q. Is the habit of boasting of intimacy with people holding high position and commanding influence and power, when the fact is otherwise, an evidence of insane delusion ?

Mr. Scoville :

Wait one moment ; I object to that question.

The Court :

What part of it ?

Mr. Scoville :

I think it is a matter for the jury to determine.

The Court :

But that is a question in science in which the opinion of experts are admissible.

Q. Is the habit of boasting of intimacy with people holding high position and possessing influence and power, when the fact is otherwise, an evidence, in your judgment as a scientist, of an insane delusion ?

Mr. Scoville :

That question can be answered probably truthfully in two different ways—yes or no ; of course it is a matter of degree largely ; the witness could not answer it one way or the other without either favoring or prejudicing this particular case ; it is evidently put with a bearing on this identical case ; the witness might answer No truthfully, having in point some other case ; if it has reference to this particular case, it cannot be answered without taking into account all the testimony in the case, which must be weighed by the jury ; they are the persons to determine that question.

The Court :

That is a matter of argument to the jury, whether the answer fits the case; still, as a question in science, I think it is competent.

Mr. Scoville :

I do not wish to argue with your Honor, but I would like to call the attention of your Honor to the first view of the matter which I present; it is quite evident that this witness may answer that question and answer it truthfully, having in mind an entirely different state of facts, different persons and different circumstances, and yet we cannot tell upon what the witness predicates his answer.

The Court :

No; but you can tell on cross-examination.

Mr. Scoville :

I object to that question, your Honor.

The Court

(To counsel for Government): Go on.

Q. Is the habit of boasting of intimacy with people holding a high position and possessing influence and power, when the fact is otherwise, evidence of insane delusion, in your judgment as a scientist?

A. It is not an evidence of the delusion of an insane person, because it is not the result of disease, and insanity is a disease; it is a result of vanity and self-conceit and love of notoriety, and these are vices and not diseases.

Mr. Scoville :

If the Court please, I except to the admission of that evidence.

The Court :

Yes; certainly.

Q. In your judgment, as a scientist, would the assertion that one was the chosen instrument of God, and in direct and immediate communication with Him as a trusted agent, indicate that the person

thus boasting was acting under the influence of an insane delusion ?

Mr. Scoville :

I object to that also.

The Court

(To the witness) : Proceed, Doctor.

Mr. Scoville :

I wish the reporter to note an exception.

The exception is accordingly noted.

Q. Would the assertion by any individual that he was a chosen instrument commissioned by God, be, in your judgment, evidence that the person thus boasting was acting under the influence of insane delusions ?

A. It would not at all, for several reasons ; shall I give those reasons ?

Mr. Porter :

Yes.

A. (Continuing.) That can easily be asserted as an excuse for crime, or acts which cannot otherwise be defended, and taken of itself would be no proof ; but when it exists as one of the symptoms of insanity, it then would be susceptible of proof by other confirmatory evidence.

Q. What would be the other evidences of insanity which, coupled with that, would show that a person was acting under an insane delusion ?

A. If the act was contrary to and inconsistent with the previous habit and whole character of the individual before, and was not, in other words, a culminating end of habits and conduct which the criminal had always indulged in, but was directly opposed to all of the previous character and habits and actions of the individual, it would be a strong presumptive evidence. For example, as was alluded to this morning, if a man who has always been a hard-working, industrious man in order to support

his family, always been of correct habits, moral in all his character, affectionate, fond of his wife and fond of his children, and had never been guilty of a vice before, should cut the throat of his child and give as a reason that he was directed by a voice from God to do it, it would give probability to the fact that he was under the insane delusion, and it would be almost certain that he was, if it was sustained by other evidence of insanity ; whereas if the man had always been before a tyrant to his wife and to his children ; had been utterly reckless in his conduct ; utterly vile in all his habits before ; a man of high temper, recklessly disregarding the laws of God and man ; if such a man should assert that he was directed by God to do it, it would not, to the mind of any person, be evidence that he was insane ; it would be a defense and not a delusion.

The Prisoner :

If the Court please, that hits my case exactly. I have always been a Christian man.

Mr. Scoville :

If the Court please, I object to the answer, and except to the ruling of the Court in admitting it in evidence.

The Court :

(To the reporter) : Note an exception.

The exception is accordingly here noted.

Q. Does any case occur to you, by way of illustration, in reference to ladies, for instance ? I have seen something of that sort in the medical works, and yet I do not recall it exactly.

A. I can give an illustration——

Mr. Scoville (interposing) :

One moment. What is proposed to be proved here about the ladies ?

Mr. Porter :

I propose to offer an illustration of the practical change which is wrought by insanity, in order to

enable the jury to say whether, in this case, the antecedents of the prisoner, as claimed by him, or as they actually existed, are or are not inconsistent with the idea of insane delusion.

The Court (interposing) :

Simply another illustration.

The Prisoner :

I do not smoke or chew or drink or run with lewd characters at any time. I have always been a Christian man.

The Court :

This is only another illustration, as I understand, of the same general tenor as the last.

Mr. Scoville :

It seems to me that it is travelling inside of the case considerably when it is necessary, or thought proper, to call the attention of the witness to the peculiarities of the other sex. It might be admissible, if stated generally as to mankind.

Mr. Porter :

I do not care for particular cases, and I will not waste the time of the Court and jury by discussing it. If the gentleman objects to these illustrations on our side, I take it for granted that he will not hereafter introduce so many on his own.

Q. A good deal has been said here in the opening argument and by some of the witnesses, about uncontrollable impulse. Is that a form of insanity?

A. Uncontrollable impulse in and of and by itself does not constitute any form of insanity known in science. It is a symptom which may be found or may be absent in the insane, but it does not constitute a form of insanity.

Q. Now I put to you a hypothetical case. Assuming that there is proof that a person charged with crime, having a delusion actually, and whether sane or insane, he has already and in repeated instances controlled himself and voluntarily refrained from

the act which he professes to believe God commanded him to do, would you call that evidence of an uncontrollable impulse?

A. It would not be. The statements that are assumed to be true, would show that the individual has not lost the power of his will, or his self-control under the influence of the delusion of an insane person, but that his conduct is governed by the mental processes which naturally belong to that individual.

Q. If it be assumed that in repeated instances the party thus accused avowed that he had personal or public motives for his act, would that, in your judgment as a scientist, show that the act was or was not performed under the influence of an uncontrollable impulse?

A. It would be a proof——

The Prisoner (interrupting):

Allow me to suggest that the word pressure is better than impulse. Doctor, allow me. There was an irresistible impulse, or not an impulse, but a pressure grinding and grinding and grinding upon me for four weeks to remove the President of the United States. That never left me for one moment during my wakeful hours. With that statement, I would like to hear the doctor's position.

Q. I will repeat my question: If it be assumed that in repeated instances the party accused of a criminal act, avowed that he had personal or public motives for that act——

The Prisoner (interrupting):

I deny any personal motives.

Q. (Continuing.) Would this, in your judgment as a scientist, tend to show that the act was or was not performed under the delusion of divine command?

A. I should say that it was proof that it was not, and for this reason. When persons are acting under the delusions of insanity they have a steadfast, un-

flinching, unyielding, abiding faith in those delusions, which of itself governs and controls the act, and is not influenced either for or against the performance of the act by any mental processes. It would show that delusions did not control the will, but that the act was the result of motive.

Q. Would the statements by the accused, his repeated oral and written statements of the advantages which he expected to accrue to himself or to others from the crime, be a demonstration that the performance of the act was the result of a process of reasoning and was not the result of a delusion, that it was prompted by divine command ?

The Prisoner :

The first part of your statement is not true as a matter of fact and you cannot prove it, so I object to the Doctor's answering any question on that statement.

Mr. Porter :

I believe the prisoner is through; and, if so, we will proceed.

Q. Would the statement of the accused, made repeatedly before and after the act, of the advantages expected to accrue to others or himself from the act be a demonstration that the performance of the act was the result of a process of reasoning, and was not the result of the delusion that it was commanded by God ?

A. The very fact of the statement would of itself show a proof of reasoning, while in delusions of insanity there is no reasoning about it in relation to the specific act and its consequences; when it becomes a matter of reasoning it ceases to be an act governed by delusion.

The Prisoner :

The Doctor is simply answering your question on a false basis.

Q. What is the import of the medical term often

used in the progress of this trial, "The border line of insanity?"

A. The border line of insanity, when used by medical men as applied to an individual case, means that the patient presents symptoms indicative of a threatening danger of disease which may be developed in the form of insanity in some way; this is its exact and accurate use by medical men; in the loose usage of common language it means simply eccentricities.

Q. A word, I believe, of American invention, has been frequently used on this trial—and it seems to be an expressive one—the word "Crank," in common parlance, does that express the same idea?

A. My acquaintance with that word has been recent, and it has not as yet found a place in the vocabulary of science.

Q. What are eccentricities; are they evidences of insanity?

A. Eccentricities are exhibitions of character, in language, in dress, in modes of expression and in conduct different from the ordinary standard of the world, and are usually the result of vanity or self-love or a desire to become conspicuous resulting from habitual indulgence of this passion, until they become exaggerations.

Q. Have you made a personal examination of the accused for the purpose of determining whether he is sane or insane?

A. I have not.

Q. Why did you not?

A. In the first place, because I was not asked to, and in the second place, because I have no desire to do it; I have stated nothing personal.

Mr. Porter:

I merely wish to explain that in the case of the prisoner you have had no opportunity for personal observation, and so, of course, I shall not ask for your judgment on the subject. That is all.

The cross-examination by Mr. Scoville elicited no change or modification of the opinions expressed in the direct examination.

By the Court :

Q. I would like to ask you a few questions ; will you please state, first, to what class of subjects insane delusions generally relate ?

A. Oh, it comprehends a great variety ; according to the exciting cause of the insanity.

Q. Do they always relate to something affecting the individual himself ?

A. No—not directly.

Q. Or his relation with other people ?

A. No, not necessarily ; they may and generally do, but not necessarily.

Q. Please explain to the jury the difference between insane delusions and absurd or extravagant opinions ?

A. Insane delusions are false beliefs in fact ; I prefer to use the term delusions of sane and delusions of insane rather than to make the adjective qualify the delusions of sane or insane.

Q. What is the difference between insane delusions and absurd or extravagant opinions ; the jury may like to know something about that ?

A. The delusions of the insane are false beliefs as to facts or the relation of facts ; absurd and extravagant opinions are the result of reasoning which comes from differences in the intellectual powers of different individuals ; some are biased by extravagant hope, confidence and a belief of success, while others are depressed naturally from their physical condition and always inclined to take the dark side of the case ; of course, extravagant opinion may take either of these directions without any absolute delusion of fact ; the fact may be originally there, and yet the processes of reasoning vary ; it is a difference of belief as to facts in the one case, and in

the other a difference of processes of reasoning on those facts.

Q. Is an insane delusion ever the result of a process of reasoning?

A. No; it is incompatible in terms. No one ever reasoned himself into the delusion that he was General Washington, or the King of England, or the Pope, or Jesus Christ, or that he is commanded by God to commit a crime. The delusion is an emanation of the brain caused by disease.

Q. You have described a state of things in which a party has no delusions, and yet in which there is some perversion, the result of which is that his will does not control his actions, and you have stated that that was not moral insanity. Please explain the difference between that and moral insanity and between that and irresistible impulse where the will does not control his actions and yet there is no delusion.

A. These cases I speak of, where there are no delusions, are perversions of the emotions and the instincts of the individual caused by disease to such a degree as to produce conduct in the individual entirely different from the conduct and habit of that individual's life, and which has such a control over that individual as to make him incapable of choosing a course or refusing a course.

Q. What is the difference between that and what is called moral insanity; you have stated that they are entirely different?

A. One is the result of disease, and a careful study and analysis of all the conditions and symptoms should reveal other collateral or confirmatory evidence of the existence of the disease besides the crime alone. I do not think there is any such word as moral insanity in science. I do not believe in its existence. Moral insanity is simply wickedness.

Q. Is there any difference between that case and a case of irresistible impulse?

A. Decidedly.

Q. What is the difference?

A. Irresistible impulse of the insane is where the mental faculties or the emotions or the instincts are so perverted by disease as to destroy the person's power of acting otherwise. Uncontrollable impulses may exist in perfectly sane people as the result of bad habits, long indulgence in vice, and no restraint as to feeling and temper.

Q. Passions?

A. Passions and self-indulgence in every form. A man who is in the habit of using tobacco or opium, perhaps, may not be able to break off, and that is an uncontrollable impulse; but that is not insanity, it is vice.

By the Prisoner :

Q. If your Honor is through I would like to ask a question. Where a man does an apparently illegal act from an irresistible pressure that he cannot resist, is that sanity or insanity?

A. Allowing that fact of the pressure is proved, it is insanity.

By the Prisoner :

That is my case, sir. [Laughter.]

Mr. Scoville :

Do you mean to say that in cases actually recognized as insane, take some of the cases in the asylums, for instance, that the disease of the mind must operate or show itself in a perversion of the moral faculties and moral perceptions?

The Prisoner :

We have been over that several times. Let's go to lunch, I am hungry.

A. I did not say that. What I said was that insanity, as a disease, may be a perversion of the emotions and instincts without primary perversion of the intellect, or without delusion. If you ask me the opposite, it is another question. Do you ask me that?

Mr. Scoville :

Yes.

The Witness :

Will you please to state it once more. Is it that a person may have insanity consisting of perversion in the action of the mental faculties without perversion of the moral ?

Mr. Scoville :

No, sir. I ask you if it is not a fact, as a manifestation, as a phase of insanity frequently, that the moral faculties and the moral sense is perverted ?

A. O, yes ; certainly it is a fact. How frequently——

Q. (Interposing.) Then in such a case as that, if there is a perversion of the moral sense and an apparent absence of a proper sense of moral obligation—if that is observable in a case of insanity, would you call it wickedness ?

A. No, I should not, if this be a result of the disease insanity, because the person is not responsible. Perversion——

Q. (Interposing.) Is it not a fact that frequently there are insane patients who are exceedingly ugly and apparently depraved, and that that ugliness and depravity is a result of the mental disease ?

A. Yes ; but it is a fact also that with some insane there is very great wickedness associated, while in others similar acts are not wickedness, because they are the results of disease, and they are not responsible.

Q. With some insane people is it a fact that there is very great wickedness ?

A. O, yes, sir ; shall I answer more fully ?

Mr. Scoville :

Anything you please.

A. (Continuing.) I was going on to say, to finish a former question, that the term perversion implies that it is different from the natural acts of the indi-

vidual; it is disease. Perverted means changed from the natural acts of the individual. Now, in regard to your last question, insane people may be very wicked, because they are certainly responsible for what they can restrain themselves from doing. For instance, if they are assured of greater pleasure from not doing a thing and greater pain for doing it, and this deters them from a wicked act, it shows that insanity has not destroyed their power of will as to this specific act.

By Mrs. Scoville :

I would like to ask if a person can be born insane?

The Prisoner :

You are not an attorney in this case. You had better keep quiet.

A. They cannot.

Q. From malformation of the brain?

A. That produces idiocy or imbecility, but not insanity. Insanity is an acquired disease, which means perversion from the normal state. If they are born in this way it is idiocy or imbecility, not perversion from the normal state.

Q. Can it develop into insanity?

A. A malconstructed brain may be more liable to become insane.

The Court :

That has been stated before, I think.

